

ANNEX A

Under regulation 6(1)(b) of the EIRs, we do not have to give you information which is already publicly available and easily accessible to you in another form or format. Where information is already publicly available I have provided you with the links to the relevant websites below. If, however, you do not have internet access to obtain this information from the websites listed, then please contact me again and I will send you a paper copy.

- [Letter from RAI Committee to NatureScot 20 May 2025](#)
- [Letter from NatureScot in response to Committee letter of 20 May 2025](#)
- [Letter to RAI Committee - 23 April 2025](#)

On reviewing materials within scope of your request, some information has been redacted under regulations 10(4)(e) (internal communication). This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is some public interest in releasing the information as part of an open, transparent and accountable government. However, this is outweighed by the greater public interest in allowing Scottish Government officials and ministers a private space to share free and frank views for the purpose of deliberation of any given policy.

A small amount of information has been redacted from the document disclosed under Regulation 11 – Personal Data as it contains personal information. Disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulations (GDPR) and in Section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test'.

Who	<p><u>Rural Affairs and Islands Committee</u> Finlay Carson, Convenor – Scottish Conservative and Unionist Party Beatrice Wishart, Deputy Convenor – Scottish Liberal Democrats Mark Ruskell – Scottish Green Party Tim Eagle – Scottish Conservative and Unionist Party Rhoda Grant – Scottish Labour Emma Harper – Scottish National Party Emma Roddick – Scottish National Party Evelyn Tweed – Scottish National Party Elena Whitham – Scottish National Party</p> <p><u>Substitute members</u> Christine Grahame – Scottish National Party Daniel Johnson – Scottish Labour Liam McArthur – Scottish Liberal Democrats Ariane Burgess – Scottish Green Party Brian Whittle – Scottish Conservative and Unionist Party</p>
Why	The session will cover all aspects of the Natural Environment (Scotland) Bill.
Key Messages	<ul style="list-style-type: none"> • We welcome the opportunity to answer the Committee's questions and thank all of the witnesses who made appearances to give evidence on the Natural Environment Bill. • The Government has been closely following the work of the Committee and has paid close attention to views on the measures introduced in the Bill. • We are considering stakeholder feedback and SG officials are undertaking work to understand how we might improve and strengthen aspects of the Bill so that it can best meet its aims. • The Bill will support our ambition for restoring biodiversity and tackling climate change by putting in place measures that will help to deliver a nature positive vision for Scotland.
Supporting officials	[REDACTED: REGULATION 11(2)] [REDACTED: REGULATION 11(2)] [REDACTED: REGULATION 11(2)] [REDACTED: REGULATION 11(2)]
Briefing contents	Please see table below
Media handling	Comms [REDACTED: REGULATION 11(2)] and [REDACTED: REGULATION 11(2)] [REDACTED: REGULATION 10(4)(e)]

Annex A	Background to session • [OUT OF SCOPE]
Annex B	[OUT OF SCOPE]
Annex C	Part 4 – Deer – Key issues and lines to take [OUT OF SCOPE] Code of practice on deer management New grounds for intervention for nature restoration Deer management plans, control agreements and control schemes [OUT OF SCOPE] Authorisations, Competency/training requirements [OUT OF SCOPE]
Annex D	[OUT OF SCOPE]
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Annex H	List of any relevant Committee correspondence
Annex I	[OUT OF SCOPE]
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Annex A: [OUT OF SCOPE]

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Annex B: [OUT OF SCOPE]
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Annex C: Part 4: Deer Management

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Lines to take:

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What the Bill does in part 4

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 - Amend timeframes for reporting in relation to the Code of Practice on deer management.
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Code of practice on deer management

What this section does:

Section 5B of the 1996 Act requires NatureScot to review compliance with the code of practice on deer management on a three-year cycle. Section 12 of the Bill changes the approach to such reviews and enables NatureScot to conduct reviews at any time. However, it also provides that they must carry out a review if requested to do so by the Scottish Ministers, at an appropriate time after a change to the code of practice and at least once every 10 years.

Background:

The 1996 Act contains several occurrences where NatureScot is required to ‘have regard to the code of practice’. The DWG recommended that these individual occurrences be removed and instead rely on the existing overarching duty to have regard to the code when exercising **ANY** its functions under the 1996 Act.

Lines to take:

- While we have removed specific references to the Code of Practice under certain sections of the 1996 Act, the Bill retains the overarching duty under section 5A(12)(b) of the 1996 Act which sets out that NatureScot must have regard to such the code in exercising its functions under this Act.
- That means that in carrying out any of their functions under the 1996 Act, they must have regard to the Code.
- The references to having regard to the code in sections 6A, 7 and 8 are also not directly relevant to the actions that can be taken under these sections. The question of whether or not to proceed with a deer management plan, control agreement or control scheme hinges on whether one of the grounds of intervention have been met, rather than whether the code of practice has been followed. This was also part of the rationale of the DWG for removing these references to the code of practice in these sections.
- NatureScot is currently required to prepare and establish a code of practice on deer management and review compliance with the code on a three-year cycle.
- The Bill changes the approach to such reviews and enables NatureScot to conduct reviews at any time.
- However, they must carry out a review if requested to do so by the Scottish Ministers, at an appropriate time after a change to the code of practice and at least once every 10 years.
- This was recommended by the DWG, who considered that the three-yearly requirement was a legacy of unrealistic expectations of what the Code might achieve, and is unnecessarily frequent for monitoring the effect of the code.

- We have tried to strike the balance here between ensuring appropriate compliance monitoring arrangements while allowing flexibility as to when this takes place.

Q and A:

Q: How will NS decide when a review is necessary?

A: The Bill sets out three triggers for a review of the Code of Practice. Firstly, following a change to the Code itself. So for example, I would expect that NatureScot will carry out a review of the Code of Practice within three to four years of this Bill having been passed. The exact point at which will be for NatureScot to decide, depending on when provisions come into force.

NatureScot, generally, will consider the timing for a review depending on the wider deer management world. If there are concerns about compliance with the Code, changes to policy or perhaps we see the increase in deer management we are looking to achieve – these might all be circumstances where NatureScot consider a review of compliance.

The second trigger for a review of the Code of Practice is on Ministerial request. The third, which acts as a backstop and is not intended to be the default, is no later than ten years after the last review.

Q: Can you share a draft code of practice while the Bill is in parliament ahead of Stage 3?

A: The Code of Practice for deer management already exists, it can be found on the NatureScot web pages. We will not be able to share an updated version ahead of stage 3, as the Code will need to take account of changes which might be made at stage 2. NatureScot will engage with stakeholders as part of the process to update the Code, and we do not think it feasible for this to be carried out meaningfully ahead of stage 3. However, we will look to begin that engagement as early as possible.

Q: Is the requirement on NatureScot a “must” or a “may” when it comes to considering the code of practice?

A: Section 5A(12)(b) provides that NatureScot *must have regard to* the code of practice on deer management in exercising its functions under the Act.

The most commonly used approach in legislation is to the effect that those to whom guidance is addressed should “have regard to” that guidance. Broadly, a statutory requirement to “have regard” to something is understood as akin to a requirement to consider it but it falls short of a requirement to make that thing the only or top priority. It merely requires that person or body to give consideration to the guidance. The decision maker may consider the guidance but not follow it, this would not be unlawful, however any departure from the guidance would need to be reasonable.

Q: What is the difference between “having regard” to something in legislation and “having due regard”

A ;A statutory requirement to “have regard” to something is understood as being a requirement to consider it. A statutory requirement to have “due regard” to something requires the duty holder to give the regard that is appropriate in all the circumstances. The duty must be given appropriate weight while taking into account other considerations, such as other duties in legislation or other policies. The duty must be exercised in substance, with rigour and with an open mind.

New grounds for intervention for nature restoration

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The Bill makes amendments so that the updated grounds for intervention will be the trigger for which a deer management plan, control agreement, or control scheme can be entered into.

[OUT OF SCOPE]

To help owners and occupiers of land to understand and anticipate when NatureScot may decide to intervene, NatureScot will be required to include the circumstances in which it will intervene in the Code of Practice on Deer Management (see amendment to section 5A of the 1996 Act).

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Q and A:

Q: What are the criteria for NatureScot to use their new powers for nature restoration? / How do you define nature restoration and how do you measure it?

A: The Bill sets out that in order to enter into a section 7 control agreement or section 8 control scheme there would need to be evidence that deer are, or are likely to prevent or reduce the effectiveness of work, a project or natural process that:

- Preserves, protects, restores, enhances or otherwise enhances the natural heritage or environment and

- Is for, or contributes to, a relevant target, strategy or plan relating to the environment, climate change, or biodiversity that applies in Scotland.

There may be a broad range of situations where this ground of intervention will apply. For example, it may relate to the establishment of woodland or other vegetation through non-natural means to assist with woodland expansion, biodiversity enhancement, flooding and drought management, improving forest resilience through diversification of species or peatland management and restoration. However, it will be necessary to show a connection to a statutory duty or a public plan or strategy.

NatureScot will be required to set out in the Code of Practice examples of the kind of circumstances in which the powers of intervention could be used.

Before NatureScot could require deer management under a section 8 control scheme they would not only need to be satisfied that these conditions apply, but also have had to exhaust the voluntary process through section 7. This means they must be satisfied that it is not possible to secure an agreement or that an agreement is not being carried out, or that six months have elapsed since they gave notice under section 7 that they have formed the view that deer control measures are necessary and no agreement has been reached. This is the case at the moment.

Those subject to a section 8 control scheme will have the same right of objection to Scottish Ministers and subsequent appeal to the Scottish Land Court if the control scheme is approved.

NatureScot would have to set out the progress indicators as part of both control agreements and control schemes that progress would be measured against.

Q: That isn't fair for landowners who are facing uncertainty about what they need to do - how are they to know what actions they need to take?

[OUT OF SCOPE] There are protections in place – we have an appeal scheme, NatureScot will set out examples in the Code of Practice and before any landowner is compelled to kill deer under section 8 of the 1996 Act, NatureScot would need to have attempted to reach agreement on voluntary deer management first.

Stakeholders will be invited to participate in changes to the Code of Practice, and we will continue to do all that we can to support effective, voluntary deer management across Scotland.

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Deer management plans, control agreements and control schemes

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Alternative approaches to Bill

DMNROs/NatureScot intervention powers

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The Bill also sets out that NatureScot must provide examples of the circumstances in which they will intervene in the deer management of an area in the Code of Practice.

Q and A:

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Q: Why is there not more detail on the face of the Bill about the triggers for NS intervention? [REDACTED: REGULATION 10(4)(e)]

A: [OUT OF SCOPE]

We will set out in the Code of Practice some examples of the circumstances where intervention under the new ground might take place. The process, in terms of regulation, however remains the same.

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Q: Why has the ‘have regard to the code’ been removed?

A: The removal of references to having regard to the code of practice in sections 6A, 7 and 8 was a DWG recommendation. This has been taken forward for two reasons - (1) The references to having regard to the code in these sections code are not directly relevant to the actions that can be taken under these sections. The question of whether or not to proceed with a deer management plan, control agreement or control scheme hinges on whether one of the grounds of intervention have been met, rather than whether the code of practice has been followed and (2) there is an overarching duty under section 5A(12)(b) of the 1996 Act which sets out that NatureScot must have regard to the code in exercising its functions under this Act.

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Authorisations, Competency and Training requirements

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Q and A:

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Q: How would the ‘supervision’ work in practice?

A: We will work with stakeholders to consider in what circumstances someone would be considered as being, or not being, supervised either in the Code of Practice or in the regulations bringing forward the register of authorised persons (or both), but this is likely to be along the lines of sight and sound – ie they need to be in ear/eyeshot at all times.

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Licensing of dealing in venison

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Annex D: [OUT OF SCOPE]

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Annex E: [OUT OF SCOPE]

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Annex F: [OUT OF SCOPE]

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Annex G: [OUT OF SCOPE]

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Annex H: Text of letter from RAI Committee to NatureScot 20 May

[REDACTED: REGULATION 6(1)(b)] - [Letter from RAI Committee to NatureScot - 20 May 2025](#)

[REDACTED: REGULATION 6(1)(b)] - [Letter from NatureScot in response to Committee letter of 20 May 2025](#)

[REDACTED: REGULATION 6(1)(b)] - [Letter to RAI Committee - 23 April 2025](#)

What	Meeting with SE LINK members to discuss Part 2 of the Natural Environment Bill [MiCase: 2025/00459446]
Where	Microsoft Teams
When	11 June 2025 11:45 – 12:15

Key Message(s)	The Scottish Government welcomes and values the views of SE LINK and members on Part 2 of the Bill and their input into the development of the Natural Environment Bill. [REDACTED: REGULATION 10(4)(e)]
Who	Scottish Environment LINK is the forum for Scotland’s voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.
Communications	[REDACTED: REGULATION 10(4)(e)]
Supporting officials	Emily McKintosh – Special Advisor [REDACTED: REGULATION 11(2)] – Team Leader, Nature Division, Bill Unit [REDACTED: REGULATION 11(2)] - Policy Manager, Nature Division Bill Unit
Why	[REDACTED: REGULATION 10(4)(e)]
Briefing contents	Annex A: Agenda Annex B: [OUT OF SCOPE] Annex C: [OUT OF SCOPE] Annex D: [OUT OF SCOPE] Annex E: SE LINK response to the call for views on the NE Bill

ANNEX A AGENDA

- 1. Welcome and Introductions**
- 2. Part 2 of the NE Bill / EIA Habs Regs powers**
- 3. Open up to comments/views from SE Link**

ANNEX B
[OUT OF SCOPE]

ANNEX C
[OUT OF SCOPE]

ANNEX D
[OUT OF SCOPE]

ANNEX E
SE Link Response in call for views on the NE Bill

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PART 4 – DEER MANAGEMENT

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Do you agree with the proposed changes in Section 12 which changes how frequently NatureScot reviews compliance with the code of practice for deer management?

We emphasise the key links between the Code of Practice Deer Management and NatureScot and it will be important that the desired outcomes of habitat restoration and enhancement are included and well-described. We expect a new Deer Code to be produced and to reflect the new deer legislation as soon as possible after enactment. We also support regular reports on compliance with the Deer Code, other aspects of implementing improvements to deer legislation, and meeting enhanced cull targets to the Scottish Parliament on either an annual or bi-annual basis. On this basis we agree with the proposed



changes however we think routine reporting to the Scottish Parliament on sustainable deer management progress could be enhanced.

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